

Appl. No. 09/314,615
Reply to Final Office Action of March 7, 2005

REMARKS/ARGUMENTS

Reconsideration of the rejections set forth in the Final Office Action dated March 7, 2005 is respectfully requested. Claims 1-28 are currently pending and have been rejected.

Specification

It is not entirely clear to the Applicant why the Examiner is "reminding" the Applicant of the proper content of an abstract of the disclosure. On page 2 of the Final Office Action, the Examiner has italicized the statement that reads "The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art."

Although the Examiner does not appear to have specifically objected to the disclosure, and has not set forth the passages of the disclosure to which he apparently takes exception, the Applicant has amended the abstract in a sincere effort to address the Examiner's apparent concerns. Specifically, the Applicant has removed the last sentence of the abstract, and has amended the abstract to recite a method of dynamically loading protocol stacks. It is noted that the amendments made to the abstract are based upon the subject matter claimed in claim 1. As such, it is respectfully submitted that there is no new matter added by way of these amendments.

Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103

Claims 1-3, 7-10, 12, 14-18, 22-25, and 27 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,640,394, issued June 17, 1997 to Schrier et al. (hereinafter "Schrier"). Claims 11, 13, 26, and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrier. Claims 4-6 and 19-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schrier in view of U.S. Patent No. 6,032,154, issued February 29, 2000 to Coleman et al. (hereinafter "Coleman").

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1. Independent Claims 1, 10, 12, and their respective dependents

Independent claim 1 recites a method which includes receiving a message to load a first protocol stack, and determining whether the first protocol stack can be loaded. If the first protocol stack cannot be initially loaded, then the second protocol stack is unloaded. After the second protocol stack is unloaded, the first protocol stack is loaded.

On page 9 of the Final Office action dated March 7, 2005, the Examiner has stated that the Applicant admits that Schrier teaches a method of operating two protocol stacks that implement the same protocol, and that claim 1 does not specify implementing different protocols. The Applicant concurs with the Examiner's statements, but note that it has never been asserted by the Applicant that claim 1 somehow specifies implementing different protocols.

The Applicant respectfully disagrees with the Examiner's statement on page 10 of the Final Office Action dated March 7, 2005 which reads "Applicant also asserts that the Schrier reference is not able to differentiate between the two loaded protocol stacks. However, the reference teaches 'real mode' and 'protected mode' protocol stacks." At lines 29-34 of column 4, Schrier states:

"As discussed above, once a real mode protocol stack has been loaded and is operating, it is not possible to run a subsequent protected mode version of a protocol stack which implements the same protocol because the stack manager is not able to differentiate between the two protocol stacks." [emphasis added]

It is respectfully submitted that Schrier teaches of not being able to differentiate between two protocol stacks (a real mode protocol stack and a protected mode version of the protocol stack). A careful reading of the above-recite passage makes it clear that the two protocol stacks that the stack manager is unable to differentiate are a real mode protocol stack and a protected mode protocol stack. The Examiner has even cited the above-recited passage in his rejection of claim 1. Hence, the assertion of the Applicant is based on the direct teachings of Schrier. It is Schrier

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that makes it clear that a stack manager is not able to differentiate between a real mode protocol stack and a protected mode protocol stack.

Schrier is generally directed to methods of operating two protocol stacks that implement the same protocol. The reference describes that this situation can occur if the same protocol is implemented in one protocol stack in real mode for MS-DOS and one protocol stack for protected mode of WINDOWS (Schrier, column 3 at lines 57-63). Schrier describes that a stack manager is unable to differentiate which protocol stack to use (Schrier, column 4 at lines 29-34). It appears that both protocol stacks of Schrier are loaded, otherwise there would be no issue with two protocol stacks that implement the same protocol, *i.e.*, Schrier teaches that a first protocol stack and a second protocol stack are such that both can be loaded at the same time.

As taught by Schrier, when a second protocol stack (*e.g.*, the real mode protocol stack for the protocol) is loaded and operating, it is not possible to run a first protocol stack (*e.g.*, the protected mode protocol stack for the protocol) because a stack manager cannot differentiate between the first and second protocol stacks (Schrier, column 4 at lines 29-34). Schrier teaches that a solution would be to terminate the second protocol stack (*e.g.*, the real mode protocol stack for the protocol) and transfer communication responsibilities using the second protocol stack to the first protocol stack (*e.g.*, the protected mode protocol stack for the protocol) (Schrier, column 4 at lines 34-37). Schrier discloses that such a solution is tremendously difficult if not, as a practical matter, impossible.

In the passages cited by the Examiner in the Final Office Action dated March 7, 2005 as anticipating claim 1, Schrier addresses the problem of a stack manager not able to differentiate between two loaded protocol stacks. Schrier does not appear to teach of receiving a message to load a first protocol stack. Schrier appears to suggest receiving a request to run a protected mode version after a real mode is operating, but does not teach or even suggest receiving a message to load the first protocol stack. There is also no teaching in Schrier of determining whether the first protocol stack can be loaded. As discussed above, Schrier appears to teach that two protocol stacks may both be loaded at the same time. The stack manager of Schrier is not able to differentiate between two loaded protocol stacks, and, therefore, must transfer communications

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responsibilities for applications onto a single loaded protocol stack. There is no determination of whether a protocol stack can be loaded, as both protocol stacks taught by Schrier are loaded, and the issue addressed by Schrier has to do with switching from a real mode of operation (which uses a real mode protocol stack) to a protected mode of operation (which uses a protected mode protocol stack).

Schrier teaches, as discussed above, of terminating a second protocol stack and then transferring responsibilities of applications using the second protocol stack to a first protocol stack when a protected mode version of the first protocol stack is to be run (Schrier, column 4 at lines 24-27). It is respectfully submitted that transferring responsibilities of applications to a different protocol stack when the different protocol stack is to be run is not the same as, and does not suggest, receiving a message to load a first protocol stack, determining whether the first protocol stack can be loaded, and unloading the second protocol stack if the first protocol stack cannot be initially loaded. Accordingly, claim 1 is believed to be allowable for at least the reasons set forth.

Claims 2-9 each depend either directly or indirectly from claim 1 and are, therefore, each believed to be allowable over the cited art for at least the reasons set forth with respect to claim 1. Each of these dependent claims recites additional limitations which, when considered in light of claim 1, are believed to further distinguish the claimed invention over cited art. By way of example, claim 2 recites that a first protocol stack cannot be initially loaded because memory was not available to load the first protocol stack. The Examiner has argued, on page 4 of the Final Office Action dated March 7, 2005, that Schrier teaches memory conflicts for loading a protocol stack. The Applicant respectfully disagrees. In the passages cited by the Examiner, namely passages at lines 8-10 and 23-24 of column 4 of Schrier, Schrier merely teaches that programs reside in highly specified and crowded areas of conventional memory, and that fewer memory conflicts occur in extended or expanded memory. There is no teaching or suggestion of being unable to initially load a first protocol stack because memory is not available, as required by claim 2. In fact, Schrier does not appear to teach of being unable to load any protocol stack for any reason, and makes no mention to memory being unavailable to load a protocol stack. Schrier appears only to teach that certain areas of conventional memory are crowded, and that fewer

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memory conflicts occurs in extended memory. Such teaching does not anticipate the limitations of claim 2. As such, claim 2 is also believed to be allowable over Schrier for at least this additional reason.

Independent claims 10 and 12 recite similar limitations as recited in claim 1. Therefore, claims 10, 12, and their dependents are each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 1.

2. *Independent Claims 14, 25, 27, and their respective dependents*

Independent claim 14 recites a method which includes sending a message from a first node to a second node to load a first protocol stack. The method also includes the second node receiving the message to load the first protocol stack, the second node determining whether the first protocol stack can be loaded, and the second node unloading a second protocol stack if the first protocol stack cannot be initially loaded on the second node. Finally, the method includes the second node loading the first protocol stack.

Claim 14 recites similar limitations as recited in claim 1. As such, claim 14 is believed to be allowable over Schrier for at least the reasons set forth above with respect to claim 1.

It is noted that while claim 14 may be a "variation" of claim 1, as stated by the Examiner on page 5 of the Final Office Action dated March 7, 2005, claim 14 recites additional limitations which are neither taught nor suggested by Schrier. By way of example, claim 14 recites that a first node sends a message to a second node to load a first protocol stack. The Applicant respectfully submits that there is no teaching in Schrier of first and second nodes, let alone a first node that sends a message to a second node to load a first protocol stack. As Schrier does not appear to teach the limitation of a first node sending a message to a second node (e.g., a message to load a first protocol stack), claim 14 is believed to be allowable over Schrier for at least this reason as well.

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Claims 15-24 each depend either directly or indirectly from independent claim 14 and, hence, are each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 14. Each of these dependent claims recites additional limitations which, when considered in light of the limitations in claim 14, are believed to further distinguish the claimed invention over the art of record. For example, claim 15 requires that first and second nodes are in different devices. Schrier does not appear to teach of one device sending a message to a second device to load a first protocol stack. As Schrier does not appear to teach of nodes being in different devices, claim 15 is believed to be allowable for this reason as well.

Independent claims 25 and 27 recite similar limitations as recited in claim 14. Therefore, claims 25, 27, and their dependents are all believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 14.

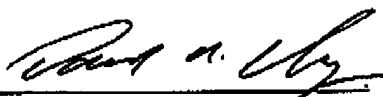
Conclusion

For at least the foregoing reasons, the Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (650) 694-5339.

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Respectfully submitted,

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